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Written statement* submitted by Mouvement contre le racisme et pour l'amitié entre les peuples, non-governmental organization on the roster

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

[24 May 2014]

* This written statement is issued, unedited, in the language(s) received from the submitting non-governmental organization(s).

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Enforced disappearances in the Tibet Autonomous Region and adjacent areas where Tibetans live

The continued systematic practice of enforced disappearances against members of the Tibetan community in the People's Republic of China's (PRC) is a matter of serious concern. Enforced disappearance is internationally recognised as a crime. The enforced disappearance of a person violates an array of fundamental human rights including: the right to security and dignity of person; the right not to be subjected to torture or other cruel, inhuman or degrading treatment or punishment; the right to humane conditions of detention; the right to a legal personality; the right to a fair trial; the right to a family life and last but not least the right to life.

In the whole Tibetan area, the law forces of the Chinese government commonly use intimidating tactics during an act of enforced disappearance to silence peaceful expressions of political opposition and other grievances. Security officers, particularly the Public Security Bureau and the People's Armed Police, use enforced disappearance to terrorize and intimidate the disappeared person, his or her family members, as well as the entire community. Recent cases of enforced disappearances have been reported from Nagchu Prefecture in Tibet Autonomous Region (TAR) where since September 2013, many Tibetans have been arbitrarily detained and disappeared in Diru County and Sog County for peacefully resisting repressive government policies.

This issue has further been exacerbated by the introduction of amendments made to the PRC's Criminal Procedure Law in 2012. These amendments allow PRC security forces to detain anyone suspected of 'endangering state security' for a period of six months without having to provide any information regarding the detainees' whereabouts. This is in direct contradiction with paragraph two, of article 1, of the International Convention for the Protection of All Persons from Enforced Disappearance.

Many Tibetans are falsely charged of committing national security crimes such as 'endangering state security' or 'leaking state secrets', a charge that excludes them from most other means of judicial redress available to criminal suspects, or even contacts with their family members and relatives. Thus, they are at the total mercy of their captors, the law enforcement agencies of the Chinese government, which justifies the practices implicated in enforced disappearances as a necessary means to ensure "social stability" and "national unity." The Chinese government views Tibetan discontent and protests as acts aimed at "splitting the Chinese Motherland."

The Working Group on Enforced or Involuntary Disappearances and the Committee on Enforced Disappearances have stated that enforced disappearance "cannot and should not be tolerated nor justified whether it is used to counter terrorism or fight organized crime or suppress legitimate demands concerning issues such as democracy, freedom of expression or freedom of religion."

The enforced disappearance of Gedhun Choekyi Nyima, the XIth Panchen Lama

On 17 May 1995 Gedhun Choekyi Nyima and his parents were abducted by PRC authorities, three days after the Dalai Lama recognised the then six-year old Gedhun Choekyi Nyima as the reincarnation of the Xth Panchen Lama.

The PRC authorities have yet to disclose any credible or verifiable information regarding the wellbeing and whereabouts of Gedhun Choekyi Nyima and his parents. In addition, the PRC continues to deny the enforced disappearance of Gedhun Choekyi Nyima and his parents, instead claiming Gedhun Choekyi Nyima's parents had requested the protection of PRC's government, and hence suggesting Gedhun Choekyi Nyima and his family voluntarily removed themselves from society.

This despite calls and requests from the UN Committee Against Torture, the UN Committee on the Rights of the Child, as well as Special Rapporteur on Freedom of Religion or Belief for the PRC to disclose information about Gedhun Choekyi Nyima and his parents.

Furthermore, the PRC has yet to respond to the request made by UN Committee on the Rights of the Child in 2013, to immediately allow an independent expert to visit Gedhun Choekyi Nyima and verify his health and living conditions. This prolonged disappearance of the second highest lama in the Tibetan hierarchy has raised fears amongst Tibetan Buddhists about his wellbeing and the possibility of him having his rights denied, in particular his religious freedoms.

The enforced disappearance of Chadrel Rinpoche

On 17 May 1995, Chadrel Jampa Trinley Rinpoche (the then president of the search committee for the reincarnation of the Panchen Lama) and Jampa Chung-la (the then secretary of the committee) were detained by PRC security forces at Chengdu airport. They were accused of 'endangering state security' and 'leaking state secrets', after it emerged that they had contacted the Dalai Lama regarding the recognition of the XI[th] Panchen Lama.

However, it was only two years later, on 5 May 1997, that the official Chinese media announced that Chadrel Rinpoche had been detained by the PRC authorities. On the same day it was also announced that he had been sentenced to six years imprisonment and three years subsequent deprivation of political rights, after being tried in secret on 21 April 1997. Thus, due to the PRC's claims that he was involved in 'endangering state security' and 'leaking state secrets', he was denied the basic right of a fair and public trial by an independent and impartial tribunal, in the determination of his rights and obligations and of any criminal charge against him, as provided in article 10 of the Universal Declaration of Human Rights.

Despite the PRC's Criminal Law stating that the length of time spent in custody prior to being convicted is counted in the term of prison sentence; Chadrel Rinpoche did not have his full time spent in custody factored into his sentence.

In late 1997, unofficial information began to circulate regarding where Chadrel Rinpoche was being detained, with claims that he was to serve his sentence in Chuandong No. 3 Prison, Tazhu County, Sichuan Province. Chuandong No. 3 Prison is a top security prison, generally used for the detention of political prisoners and renowned for its strict enforcement of restrictions on detainees' contact with the outside world. Subsequently, these restrictions prevented access to information regarding whether Chadrel Rinpoche was able to access medical treatment after it was reported that he was in poor health after conducting a hunger strike protest.

It was not until February 2001 that new information regarding Chadrel Rinpoche's detention emerged, after the UK Foreign and Commonwealth Office received information from representatives of the PRC regarding his sentencing. This i .formation contradicted previous information provided by PRC representatives by stating that Chadrel Rinpoche's trial had taken place in 1996 and hence, according to the same information, he was due to be released in May 2001. Despite this, however, throughout 2001, the PRC failed to provide any more information regarding his release.

However, in a meeting in Madrid in March 2002 between EU and PRC officials, the PRC delegation restated an earlier report by TCHRD that Chadrel Rinpoche had been released, though no information regarding his exact whereabouts were provided. The lack of information since then has however led to conflicting reports regarding the fate and condition of Chadrel Rinpoche. Recently information received from a reliable source suggest that Chadrel Rinpoche may still be alive but remains under house arrest with the location of his detention being kept secret.

This continued incommunicado detention after his reported release in 2002 and refusal to provide credible and verifiable information or to allow independent expert to verify his health and wellbeing violates the fundamental principles of the International Convention for the Protection of All Persons from Enforced Disappearance; as well as his basic fundamental rights enshrined in both the PRC's domestic law, and international law.

Recommendations

In view of the PRC's continued systematic use of enforced disappearances against members of the Tibetan community, we urge the PRC to:

- immediately and unconditionally release Gedhun Choekyi Nyima and his parents, or at the very least, to adhere to the UN Committee on the Rights of the Child request to immediately allow an independent expert to visit Gedhun Choekyi Nyima and verify his health and living conditions;
- immediately and unconditionally release Chadrel Rinpoche, or at the very least, to allow an independent expert verify his health and living conditions;
- immediately and unconditionally release those who have voiced their opposition towards the PRC's policy towards Tibetans and subsequently have been subjected to enforced disappearance;
- provide information regarding the place of detention for the immediate family of those detained and to allow family visits;
- end the PRC's security forces' use of enforced disappearances against members of the Tibetan community for peacefully opposing the PRC's policy in the Tibetan area;

- adhere to the International Convention for the Protection of All Persons from Enforced Disappearance and clearly outline their timeframe for ratification of the convention;
- immediately revoke powers given to PRC's security forces under the amendments made to PRC's Criminal Procedure Law in 2012 that allow security personnel to detain someone for a period of six months without having to provide any information regarding their location of detention.

Tibetan Centre for Human Rights and Democracy (TCHRD) NGO(s) without consultative status, also share the views expressed in this statement.